BEFORE THE LAND USE HEARINGS OFFICER
OF CITY OF SHERWOOD, OREGON

Regarding an application by Meadowlark Energy Storage, LLC for approval of improvements to connect a battery storage system to the existing substation at 20655 SW Langer Farms Parkway in the City of Sherwood, Oregon	))))	**F I N A L O R D E R** **Case No. 785-26-000057-PLNG (Meadowlark Energy)**

A. SUMMARY

1. The applicant, Meadowlark Energy Storage, LLC requests Conditional Use Permit ("CUP") and site plan approval to construct a 230kV underground transmission line, a connecting access road to SW Langer Farms Parkway, and three riser poles, up to 55 feet in height on parcels known as 20655 and 20680 SW Langer Farms Parkway; also known as tax assessor parcels 2S129A001650 and 2S129A001651 (the "site"). The proposed improvements will allow a battery energy storage ("BES") facility approved by Washington County on the east side of SW Langer Farms Parkway (tax lot 2S129A003500) to connect to the existing Portland General Electric (PGE) Sherwood substation located on the west side of SW Langer Farms Parkway, at 20655 SW Langer Farms Parkway, tax lot 2S129A001650. The site and properties to the north, south, and west are zoned LI (Light Industrial). Properties to the east are located in unincorporated Washington County. Additional basic facts about the site and surroundings and applicable approval standards are provided in the City of Sherwood Staff Report to the Hearings Officer (the "Staff Report"), incorporated herein by reference.

2. City of Sherwood Hearings Officer Joe Turner (the "hearings officer") conducted a public hearing about the application. City staff recommended the hearings officer approve the transmission line and riser poles subject to conditions of approval in the Staff Report and deny the proposed driveway access. The applicant's representatives accepted those findings and conditions, with two exceptions. A representative of PGE testified orally and in writing in support of the application. Two other persons submitted written testimony in support of the application. No one else testified orally or in writing. Contested issues in the case include the following:

a. Whether and where the applicant is required to install landscape screening; and

b. Whether and to what extent the applicant can be required to modify the surface of the existing access road on the site.

3. Based on the findings and conclusions in this final order, and subject to the conditions of approval listed or incorporated by reference at the conclusion of this final order, the hearings officer approves the application in this case.

B. HEARING AND RECORD HIGHLIGHTS

1. The hearings officer received testimony at the duly noticed public hearing about this application on September 10, 2026. All exhibits and records of testimony are

filed at the City of Sherwood Planning Department. The hearings officer announced at the beginning of the hearing the rights of persons with an interest in the matter, including the right to request that the hearings officer continue the hearing or hold open the public record, the duty of those persons to testify and to raise all issues to preserve appeal rights and the manner in which the hearing will be conducted. The hearings officer disclaimed any *ex parte* contacts, bias or conflicts of interest. The following is a summary by the hearings officer of selected testimony and evidence offered at the public hearing.

2. At the hearing, city planning manager Sean Conrad summarized the Staff Report and the proposed development.

a. The applicant is requesting approval of improvements to connect an approved BES facility located on the east side of SW Langer Farms Parkway in unincorporated Washington County to the existing PGE Sherwood substation located on the west side of SW Langer Farms Parkway in the City of Sherwood. The proposed improvements consist of three riser poles, up to 55 feet in height, a 230kV underground transmission line, and an access road to SW Langer Farms Parkway. The Code allows structures up to 50 feet high in the LI zone. Structures in excess of 50 feet high require a CUP.

b. He recommended the hearings officer approve the transmission line and riser poles subject to conditions of approval in the Staff Report and deny the proposed driveway access.

c. Proposed condition B.2 requires a roughly 950-foot long and 20 foot wide landscape area between the sidewalk along SW Langer Farms Parkway and the proposed access driveway/riser pole. This will require the applicant to relocate the existing access road on tax lot 1650 which parallels SW Langer Farm Parkway.

3. Attorney Andrew Stamp and applicant's representative Jan Porvaznik appeared on behalf of the applicant, Meadowlark Energy Storage, LLC.

a. Mr. Stamp objected to proposed condition B.2 as PGE, the owner of tax lot 1650, will not allow the required landscaping. Based on the findings on page 14 of the Staff Report, this landscaping is intended to screen the existing PGE substation. The City cannot require the applicant to screen the substation as a condition of this application, citing *Tylka v. Clackamas County*, 34 Or LUBA 14 (1998), aff'd w/o op., 153 Or App 414, 960 P2d 397, rev den., 327 Or 620(1998). There is no nexus between the visual impact of the existing PGE substation and the development proposed in this application. The three 55-foot riser poles proposed with this application will have minimal visual impact. He requested the hearings officer hold the record open to allow the applicant, PGE, and the City to try to resolve this issue.

i. PGE is concerned that the required screening will interfere with the operation and security of the substation; federal law prohibits screening that conceals substations.

b. Mr. Porvaznik noted that paving of the access road may limit PGE's ability to access underground utilities on the site.

4. Meredith Armstrong appeared on behalf of PGE. She testified that PGE supports the project but they must comply with applicable regulations regarding security of the substation, which is considered "critical infrastructure." The requirement to move the existing access road conflicts with PGE's security plan for this substation. However, PGE may be amenable to allowing landscaping outside of the 25-foot security buffer and paving options for the access road.

5. City community development director Eric Rutledge argued that there is a nexus between the proposed development and the landscaping requirement. Screening is necessary to buffer views of the three 55-foot riser poles that are proposed with this application and exceed the 50-foot height limit of the Code.

6. At the end of the hearing the hearings officer held open the public record for one week, until September 17, 2026, to allow all parties an opportunity to submit additional testimony and evidence; for a second week, until September24, 2026, to allow all parties an opportunity to respond to whatever was submitted during the first week; and for a third week, until October 1, 2026, to allow the applicant to submit a final argument, without any new evidence.

C. DISCUSSION

1. City staff recommended approval of the application, based on affirmative findings and subject to conditions of approval in the Staff Report. The applicant accepted those findings and conditions with the exception of proposed Conditions B.2 and B.3.

2. The hearings officer concludes the Staff Report identifies the applicable approval standards in the Sherwood Zoning and Development Code (the "SZDC") for the application and contains affirmative findings showing that the proposal does or can comply with those standards, provided that the applicant complies with the recommended conditions of approval, as modified. The hearings officer adopts the affirmative findings in the Staff Report as his own and incorporates them into this Final Order, except to the extent they are inconsistent with the following findings.

3. Condition B.2 which, as modified by the City's letter dated September 24, 2026, requires that the applicant provide "[a] minimum 10 foot wide landscape area located between the sidewalk along SW Langer Farms Parkway and the access driveway/riser pole location for a total landscape area of 15,000 square feet." (City's September 24, 2026, letter at 5). As proposed by the City, the landscape strip would extend from the existing access drive near the southeast corner of the PGE substation to the north edge of the proposed underground transmission line corridor. (See Attachment A of the City's September 24, 2026, letter). Compliance with this condition would require relocation of portions of the existing access road on the substation site.

a. The City notes that "The current lack of landscaping, existing driveway and existing security fencing create a harsh visual condition of the substation site…"

(Staff Report at 14). Staff later argue that the landscaping is needed because the proposed riser poles exceed the height limit of the code and the required landscaping is necessary to mitigate the visual impact of that increased height, to provide a partial visual screen between the public right-of-way and the new poles; the lack of existing landscaping merely reinforces the need for landscaping to screen the proposed riser poles. (City's September 24, 2026, letter at 2).

b. The applicant agreed to provide 15,000 square feet of landscaping as requested by the City. However, the applicant proposed that the landscaping be "[c]oncentrated within approximately 250 feet (+/-) of the proposed poles, located outside PGE's 25-foot clear zone, and comprised of low-growth, low-fuel species, subject to coordination with PGE." (Applicant's October 1, 2026 letter at 10). The applicant argues that landscaping along the east boundary of the substation is intended to screen the existing substation and will do little or nothing to screen the proposed riser poles, whereas concentrating the landscaping around the riser poles proposed near the northeast corner of the substation site will provide a more effective screen and avoid the need to relocate the access road.

c. Section 16.82.020.C.4 of the Sherwood Municipal Code (the "SMC") provides:

> C. No conditional use shall be granted unless each of the following is found:
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> …
>
> 4. Surrounding property will not be adversely affected by the use, or that the adverse effects of the use on the surrounding uses, the neighborhood, or the City as a whole are sufficiently mitigated by the conditions proposed.

d. SMC 16.82.020.D authorizes the hearings officer to impose additional conditions of approval "[t]o protect the best interests of the surrounding properties and neighborhoods, the City as a whole, and the intent of this Chapter." Such conditions may include "Requirements for the location, number, type, size or area of …landscaping…" SMC 16.82.020.D.4.

e. The landscape strip proposed by the City, a minimum ten-foot wide strip between the sidewalk along SW Langer Farms Parkway and the access driveway on the east side of the substation would provide some screening of the riser poles for persons traveling north on SW Langer Farms Parkway, but it would primarily screen the existing substation. The substation is an existing condition and this project will not alter the existing visual impacts of the substation. Therefore, the hearings officer finds that the applicant cannot be required to screen the substation as there is no nexus between the visual impacts of the existing substation and the proposed riser poles.

f. The hearings officer agrees with the applicant that locating the required landscaping around the riser poles near the northeast corner of the substation site will

more effectively screen the riser poles proposed with this application, mitigating the visual impacts of the development proposed in this application. Condition B.2 should be modified to that effect.

4. Condition B.4 requires the applicant to "bring the existing gravel driveway, from the entrance/exit on SW Langer Farms Parkway to the location the three riser poles, to the surface standards required in section 16.94.010.G." SMC 16.94.010.G.1 provides "All parking and loading areas shall be improved with a permanent hard surface such as asphalt, concrete or a durable pervious surface."

a. The hearings officer finds that SMC 16.94.010.G.1 is inapplicable in this case, as this Code section only applies to "parking and loading areas." The hearings officer adopts and incorporates the dictionary definitions of these terms cited in the applicant's October 1, 2026 letter). Nothing in the plain language of this section makes the surfacing requirement of SMC 16.94.010.G.1 applicable to an access driveway. The applicant did not propose any parking or loading areas on the site. Vehicles will occasionally park on the site while performing maintenance of the proposed improvements. But nothing in the Code requires a separate parking area for infrequent parking of maintenance vehicles.

b. There is no evidence that resurfacing the existing driveway is otherwise necessary to mitigate the impacts of the proposed use. The driveway and any associated impacts are existing. Therefore, the applicant can only be required to mitigate for increased use of the existing road. The hearings officer finds that the proposed use will result in a *de minimis* increase in traffic on this existing driveway, generating "[a]n estimated five round-trips per day during peak construction periods" (Application Attachment 06a at 6) and limited post-construction trips as for "[o]ccasional repair and maintenance of the, electrical transmission lines and riser poles." (*Id.* at 7). There is no evidence to the contrary. Therefore, the hearings officer finds that the City failed to demonstrate that the cost of this exaction, resurfacing the existing access road, is roughly proportional to the impacts of the proposed use.

c. The applicant agreed to a condition of approval requiring continued maintenance of the existing chip seal surface on the driveway. ((Applicant's October 1, 2026 letter at 10). Proposed condition of approval B.4 should be modified to that effect and proposed condition of approval D.2 should be deleted.

d. The applicant concedes that the existing "[r]oad could use some maintenance (*i.e.* another application of liquid asphalt emulsion)." Construction of the proposed use will generate construction traffic on the existing access road which, absent an additional application of liquid asphalt emulsion, could generate increased dust and other impacts. Therefore, the applicant should be required to another coating of liquid asphalt emulsion to the section of the existing access road between the entrance/exit on SW Langer Farms Parkway and the location the three riser poles prior to undertaking construction of the proposed facility. A condition of approval is warranted to that effect.

D. CONCLUSION AND ORDER

Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the hearings officer hereby approves File No. 785-26-000057-PLNG (Meadowlark Energy Storage), subject to the following conditions of approval:

CONDITIONS

A. General Conditions

1. Approval and authorization of the conditional use and site plan review shall be valid for only two (2) years from the date of the Notice of Decision (785-26-000057-PLNG), unless substantial construction in the City's determination has taken place. A one (1) year extension may be granted by the City upon written request from the applicant showing adequate cause for such extension.
   The project is approved for the following:
   - Placing an underground 230kV transmission line
   - Installing three riser poles at a maximum height of 55 feet in addition to security fencing

2. Any departure from approved plans not authorized by the Hearing Authority shall be cause for revocation of applicable building permits. Furthermore, if, in the City's determination, a condition or conditions of CUP approval are not or cannot be satisfied, the CUP approval, or building permits, shall be revoked.

3. The property owner(s) shall be responsible for the on-going maintenance of the landscaping.

4. Any change that alters or modifies the approved ingress, egress, or circulation for vehicles, without written approval, will result in Code Enforcement action, pursuant to 16.96.040.A.

5. The property owner(s) shall be responsible for the maintenance and repair of all on-site vehicle circulation areas located on the subject parcel, pursuant to Chapter 16.96.040.D.

6. The property shall comply with the applicable requirements of the Sherwood Zoning and Community Development Code and Municipal Code.

7. This approval does not negate the need to obtain permits, as appropriate from other local, state, or federal agencies even if not specifically required by this decision.

8. Prior to Approval of a Temporary Use Permit, the developer will need to obtain approval from the Sherwood City Engineer and Sherwood Planning Department for the usage of a temporary construction access from SW Langer Farms Parkway driveway access through the portion of the northeastern subject property that lies within the City of Sherwood.

9. Prior to Approval of a Temporary Use Permit, the developer will need to obtain Washington County approval for that portion of the temporary construction access to be installed within the county.

10. Prior to the Expiration of a Temporary Use Permit, the developer will need to remove the portion of the temporary construction access road located within the City of Sherwood city limits and restore the disturbed area back to original condition meeting the approval of the Sherwood Planning Department.

11. Prior to Installation of underground utilities beneath SW Langer Farms Parkway, the developer shall obtain a right-of-way permit from the Sherwood Engineering Department.

12. The improvements shall conform to the requirements of Sherwood Zoning and Development Code Sections 16.144 (Noise), 16.146 Vibrations, and 16.152 Heat and Glare. The City may require ongoing proof of compliance with these standards and may pursue code enforcement action if violations exist.

B. <u>Prior to issuance of a building permit</u>

1. The applicant shall obtain Final Site Plan approval, pursuant to 16.82.020.B.

2. Submit a landscape and irrigation plan to city staff for review and approval. The landscape plan shall include a minimum 15,000 square feet of landscaping concentrated within approximately 250 feet (+/-) of the proposed riser poles and outside PGE's 25-foot clear zone. To the extent feasible the landscaping shall consist of a combination of ground cover, bushes and trees to create a continuous visual landscape buffer. The types of plantings may be modified if aerial and/or underground utilities limit or prohibit specific types of landscaping. The irrigation plan shall be designed in accordance with section 16.92.040.C.

3. The applicant shall continually maintain the chip seal surface on the existing driveway between the entrance/exit on SW Langer Farms Parkway to the location of the three riser poles.

C. <u>Prior to issuance of a Right-of-Way permit</u>

1. The development shall obtain a DEQ NPDES 1200CN permit if the total amount of disturbed area (city and county) exceeds 1 acre but less than 5 acres or a DEQ NPDES 1200C permit if 5 acres and over.

2. The subject development shall obtain a Sherwood grading and erosion control permit if the total amount of disturbed area within city limits exceeds 500 square feet.

3. Prior to work on the site a Clean Water Services (CWS) Storm Water Connection Permit Authorization must be obtained.

4. Prior to installation of underground utilities beneath SW Langer Farms Parkway, The applicant shall secure a right-of-way utility license agreement from the City of Sherwood.

D. Prior to undertaking construction

1. The applicant shall apply another coat of liquid asphalt emulsion to the section of the existing access road between the entrance/exit on SW Langer Farms Parkway and the location the three riser poles prior to beginning construction of the improvements proposed in this application.

E. Prior to finalizing the building permit

1. Landscaping and irrigation shall be installed per the approved plan.

DATED this 21st day of October 2026.



Joe Turner, AICP
City of Sherwood Hearings Officer